

Wichita Citizen Review Board Minutes
February 25, 2021
4 p.m.
City Council Board Room
455 N. Main St, Wichita, KS 67202

Present: Sharon Ailsieger, Dennis Bender, Jay Fowler (Chair), Paul Kitchen, Sean Rojas, Timothy Sims, Odell Harris, Jaime Lopez, Stephanie Luna

City of Wichita Representatives Present: Captain Wendell Nicholson, Jennifer Magaña, Chief Gordon Ramsay, Lieutenant Krys Henderson, Keely Bean, Zachary Kester

1. Call to Order – Chairperson Fowler

The meeting was called to order at 4:05 p.m.

2. Approval of Minutes

Sims made a motion to approve the January 28, 2021 minutes. Second by Harris. The minutes were approved as written.

3. Public Agenda - 15 minutes is set aside for this portion of the meetings.

No one signed up in advance or appeared to present at the meeting for the public agenda.

4. Staff Report Update – Captain Nicholson

From Jan 13 to Feb 18, 2021, there were 34 external complaints and 16 internal complaints. Included in those numbers: one excessive force, 21 improper conduct, 24 procedural violations, three safety violations and one unnecessary force. Dispositions included one cleared by Axon, eight by coaching/mentoring, five exonerated, one not sustained, 21 investigations still ongoing, two sustained and 12 unfounded.

Summary of complaints closed list distributed. Fowler welcomed board members to request a review of any complaints.

Sims asked what assurance can be given to the board that investigations of complaints was done in accord with Wichita Police Department Policy 901. Specifically that complainants were contacted and the letter includes the finding. Capt. Nicholson stated that a finding is sent once the supervisor concludes the investigation. Not all complaints go to PSB, with categories A, B and C handled in the field, while categories in D, E or F are handled by PSB. Officer assigned to the investigation contacts the person making the complaint. Policy states that the citizen is supposed to be contacted. Command staff reinforce that the complainant needs to be notified. If there is a specific instance where it did not happen, please forward to Captain Nicholson to investigate. Sims suggested having someone from PSB appear in the future to speak to this.

Fowler announced that Robert Thompson did not ask for reappointment to the board. Fowler and Ailsieger were recently reappointed to four-year terms ending on December 31, 2024. The City Manager is considering additional candidates to fill vacancies.

Chief Ramsay presented information on the use of CARES Act grant funding, addressing concerns raised by Ailsieger at the last meeting. WPD applied for funding in spring 2020 with

the intention of hiring an emergency manager to work on policies and practices. Grant was received and approved by the Council in May. This was a new position, so some additional steps were necessary before posting the vacancy (open to applicants July 15 – 30). Some candidates had questions regarding the salary, and chose to withdraw after those answers were given. The subject matter expert reviewed applicants on August 10 and top candidates were chosen for interviews to be held in September. Several of the steps were slowed due to Human Resources employees working remotely and addressing other complexities related to COVID. Held virtual interviews Sept 24. Background information sent to the top candidate on September 28, but candidate did not respond. In mid-October, the second candidate was approached but had already accepted another position. No other candidates were qualified. Rather than go through the process again (which expended 4-5 months of a two-year grant) they decided to look at how else the funds could be used for COVID response. Training needs continued especially on COVID topics, with sessions now required to be socially distant. Training captain had been requesting software for virtual training (larger software system to help manage and track training). In October, when the search appeared to be unsuccessful, they decided to re-direct funding to the training program. Still trying to seek funding for an emergency manager. But it was no longer practical to use this funding to fill a position, as the grant is time limited.

Ailsieger clarified concerns were expressed by citizens on the connection between software and COVID. Chief Ramsay stated that hopefully the explanation provided today is acceptable.

5. Racial Profiling Report – Dr. Walt Chappell & Mrs. Sheila Officer

Sheila Officer, Chair of Racial Profiling Citizens Advisory Board, explained it was formed by Dr. Chappell in 2000. Many accomplishments since that time. In 2005 worked with Sen Gilbert, Rep. Finney, Sen. Faust-Goudeau, and Sen. Betts to pass racial profiling statute (KSA 22-4606 – 22-4611). Mission is to work diligently with WPD and Sheriff's Office, eliminating biased based policing by revisiting policies to see what should be changed to serve the community more effectively. Pre-COVID, they had a goal to present three workshops annually. In June 2020, hosted a workshop addressing driver's license suspension and existing laws.

Dr. Walt Chappell conducted an analysis of traffic citation data from 2016 and 2018 based on information shared by WPD. After receiving that report, WPD chose to conduct another independent evaluation of the data, engaging Dr. Birzer at Wichita State University.

Dr. Chappell began his presentation by discussing the idea of accountability. Specifically, if the officers on the street are carrying out their powers appropriately on behalf of the citizens. How do we balance rights and the opportunities for justice?

Presentation today is a shortened version. Full written reports were given to members to discuss in detail: WPD Stop Data Analysis; WPD Accidents by Citation and Race; Moving and Non-Moving Violations. Data used for analysis was provided by WPD and Municipal Court. Since the Chief has been in place since 2016, they want to see what progress is being made.

In 2018, Wichita population consisted of: 63% Caucasian; 11% Black and 17% Hispanic (based on 2010 Census). New population numbers should be released in March or April 2021.

Studies done of WPD stops and citations:

- 1) 2000 – Performed by Police Foundation in Washington D.C., and funded by State of Kansas. Found that citizens were twice as likely to be stopped if they were Black.
- 2) 2001-2004 – Stop studies produced by WPD. Twice as likely to be stopped if Black. Three times more likely to be arrested, have a physical altercation with police, be searched and jailed if Black.
- 3) 2012-2014 – Data provided by WPD to Racial Profiling Advisory Board. Performed by Dr. Birzer. Twice as likely to be stopped if Black.
- 4) 2016-2018 – Performed by Dr. Chappell showing number of citations dropped from 114,000 under Police Chief Williams to 52,000 under Police Chief Ramsay in 2016 (his first year). The following two years dropped to 42,000. This means less people were fined and/or needed to go to jail. Unfortunately, the decline was in overall numbers only. The percentage of stops were still two times more likely for individuals who are Black.

Areas addressed today:

- Non-Moving Violations – For Black drivers, 50% of citations are for non-moving violations (e.g. expired tag, drivers license expired, no proof of insurance, defective windshield or tail light).
- Moving Violations – White drivers more likely to speed, run a stop light, be in an accident and not use a turn signal.
- Types of traffic tickets - Almost 150-200 ticket citation types available to an officer. Each results in fines and court costs.
- Accidents – About the same by race. If the purpose of issuing citations is to encourage safe driving, the data shows it is not working.
- Accident Locations – Found that there are about 20 intersections in the city where most of the accidents occur. For example, in 2016-2018 most accidents were at Webb Road and Kellogg while under construction. Same at 25th & Amidon with physical obstruction in intersection. With the change in engineering of intersections, the number of accidents went down. Issuing more tickets does not prevent accidents.

KSA 22-4606-11b passed in 2005 formed the Wichita Citizens Advisory Board. Each community had a choice, form review board or conduct data analysis. Wichita chose to form CRB.

The Racial Profiling Advisory Board is asking for the following:

- 1) An analysis for 2019-2020, showing trends from 2016-2018. Data analysts are already on staff with WPD. Chief is trying to make major changes in de-escalation and more civility. Takes time for officers to learn, but will see results. Results should be documented.
- 2) Separate Hispanic from Caucasian on tickets.
- 3) List nearest cross street on accident reports. Have addresses in data but difficult to match without cross street.

For more information, visit www.racialprofilingwichitaks.com.

Today, the Senate Transportation Committee took the draft provided by the Racial Profiling Advisory Board which would allow provisions for drivers with excessive court costs to maintain a restricted license while making payment arrangements for the fines. Court fees often compound,

with some drivers owing \$20,000-\$30,000. Amendment allows judge to remove the warrant and to discuss how to get fines paid, and expunges record for driving on suspended. Over 240K Kansans who do not have a license. Of Wichita residents, 54,000 do not have a valid license. A number of groups locally coming together to work on this, considering it extortion from lower-income individuals. Federal statute in development which states action must be taken locally, or risk losing federal grant and capital improvement money.

A list of 23 reform priorities was developed by the audience of over 100 people at a Town Hall Meeting on June 18, 2019. Shared with the Chief, Command Staff, Mayor, City Council, and now with CSB.

Fraternal Order of Police (FOP) Contract Article 13 & 14 deals with discipline and termination of officer. All over the country, the FOP contracts make it almost impossible to remove or discipline an officer. Contract up for renewal at the end of December. Hoping to work with FOP, WPD and City Council to see if the two articles could be removed or modifications made.

“Why stop racial profiling in Wichita, KS?” document shared with CRB. Over 800 complaints made against WPD, documented and referred to State of Kansas Attorney General. Out of those, not one has been sustained for the citizen on the basis of racial profiling. Portion of statute addressing discipline for racial profiling was removed. No longer any accountability for officers.

Asking CSB to join the Racial Profiling Advisory Board in requesting data analysis data for 2019-2020, and then quarterly. Dr. Chappell will share the procedures he used. Data analysts working for WPD could perform the work.

Sims asked about ability to get the data 2016-2018, and why is it still not in effect. Chappell answered that the data was shared due to trust. Parties shared willingly. Sims asked if there was nothing in the State bill that compels that data to be provided. Chappell answered there was nothing in the bill in 2015. After five years of grant-funded activity, still could not decide how they were going to do it. More recent years have been conducted in a congenial way.

Ailsieger asked if more Black individuals were stopped in a particular area. Chappell answered there are very small beats in Wichita, some only a few blocks wide. Officers are able to make stops easily (due to small geographic range), and know the infractions possible by familiarity with drivers. There are four zip codes on the East side of Wichita where blacks are disproportionately receiving citations. Zip code 67211 had 19% of stops but only 10% of population. One officer under a federal step grant (enforcement of seat belt and car seat laws) wrote 729 tickets at one location (4500 Block of E 13th), while the average is only 30-40 per year per officer. Black parents without car seats are 24 times more likely to get a ticket. Black drivers are eight times more likely to be cited for open container.

Lopez asked if the racial category skews the data. Chappell agreed it does, and said it could be simply resolved by adding a field on the ticket.

Rojas noted than on the spreadsheet shared, ethnicity is listed and Hispanic/Latino is not actually a race. Chappell said the ethnicity is not always noted.

Chappell noted that (prior to Chief Ramsay) Hispanic drivers presenting Mexican driver's licenses had those licenses and green cards torn up by the officers. Further, video evidence of complaints was stolen (approx. 2007) from a Racial Profiling Advisory Board member. Fowler

countered that now officers have Axon video cameras which would document those types of issues now. Chappell agreed it would not be tolerated at this time. Still could add the race and cross-section to ticket.

Chappell said while the data provided is good, the defendants' names were removed, which eliminates the ability to identify repeatedly stopped drivers.

Sims asked why race is white. Rojas clarified that there are only a certain number of races. Hispanic and Latino is considered an ethnicity, not a race.

Fowler asked for consideration of the proposal from Dr. Chappell. Chappell noted that CRB has more authority at this point. Fowler said he would like to hold this as a resolution to be considered next month, inviting WPD to present the mechanics of granting the request, and then the board will consider the resolution.

Ailslienger asked if there an added cost. Chappell noted that five WPD analysts are already looking at statistics constantly. Chappell offered to share how the data was analyzed, and is very willing to hand it over to WPD. Nicholson stated that they are pulling data and collecting data, so this requested shouldn't be too difficult.

Sims made the motion to approve the resolution as presented. Harris second. Motion passed.

6. Executive Session – Review of Complaint(s)/Investigation(s)

Fowler moved to recess into executive session for at least 20 minutes to receive information on case number 20PSB-2781 for the purpose of addressing personnel matters of non-elected personnel and to protect privacy interests of individuals that may be identified. The board will return not earlier than 20 minutes from now. Approved. Began at 5:14 pm.

Returned at 5:52 pm. As to 20PSB-2781, the board makes no recommendation.

7. New Business – Chairperson Fowler

Bender made the motion to issue a reminder to the PSB stressing the importance of following up on complaints with the complainant(s). Second by Lopez. Sims suggested adding in accordance with WPD Policy 901. Revision approved. Motion passed.

Bender has noticed other communities are using three statistics in responding to the public's concerns about use of force: 1) Calls for Service by the public; 2) Arrests as a result of those calls; 3) Use of force during the calls. Per Bender's request, Capt. Nicholson generated statistics easily from Blue Team. The public called for service 201,000 times last year. Use of force was fairly consistent with no real anomalies, ranging 138 to 102 each month. Bender is looking for trends and changes in the statistics. Would the board want to continue to track?

Fowler asked if the term "Use of Force" would include all types of force. Capt. Nicholson said yes.

Sims asked if all were tracked anyway. Capt. Nicholson said yes, all is recorded in Blue Team.

Fowler asked if they could be generated on a monthly or quarterly basis. Bean responded that if a use of force occurs, there is an entry in Blue Team. Report goes to the supervisor and up

through chain of command. Remains in Blue Team until fully reviewed by chain of command, then data is pulled into IA Pro. Is possible to track monthly, however, monthly numbers will skew as time goes on as anything in Blue Team is considered zero data and not tracked through IA Pro. Previous years would be more consistent. If something is missing, it goes back out to the officer to be corrected. Numbers for 2020 would be more accurate. Recent audit shows 600+ entries sitting in blue team. Bender asked what would be a reasonable timeline. Bean recommends quarterly based on previous quarter. For example, in June Bean would generate first quarter data from 2021. No formal motion needed.

Sims requested to make a motion that recommendations be put forth in a formal document which includes recommendations, date and time passed. As an advisory board, at the end of service all the CSB Board members will have is a summary of recommendations. Included in the minutes, but would like there to be a document prepared for easy reference. Fowler suggested it could be appended as a separate piece of paper attached to the back of the minutes. Fowler noted than when making a motion, consider the wording carefully so that the minute taker can report it accurately. Sims noted they should include date and time. Second by Ailslieger. Motion approved.

Fowler reiterated that the board should be cognizant of the requirement, ideally writing out the motion in advance. Important to be very specific. Sims reiterated that there is a discussion period after the motion is seconded to clarify wording.

Next meeting March 25, 2021.

Fowler asked if there were cases to review. Harris requested 20PSB-5178 and 20PSB-3483.

8. Adjourn

Ailslieger made a motion to adjourn. Second by Harris. The motion passed unanimously and the meeting adjourned at 6:03 p.m.

Minutes respectfully submitted by Tina Payne, Administrative Aide II, City Manager's Office.

Wichita Citizens Review Board
Record of Recommendations/Motions
2021

Month	Recommendation/Motion
January 2021	<ul style="list-style-type: none">• None made at the meeting.
February 2021	<ul style="list-style-type: none">• Approve the resolution presented by Dr. Walt Chappell, Racial Profiling Advisory Board of Wichita. Motion by Sims; second by Harris. Motion passed.• Issue a reminder to the PSB stressing the importance of following up on complaints with the complainant(s) in accordance with WPD Policy 901. Motion by Bender; Second by Lopez. Motion passed.• Recommendations be put forth in a formal document which includes recommendations, date and time passed. Motion by Sims; Second by Ailsieger. Motion passed.